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June 2, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 – 12th Street, SW
Room: TW-A325
Washington, DC 20554



Re: CMRS Spectrum Cap (WT Docket 98–205)
Flexible Use of CMRS Spectrum (WT Docket 96-6)
Rate Integration (CC Docket 96-61)
Use of CPNI by CMRS Providers (CC Docket 96-115)
Reseller Issue: Bundling and Interconnection (CC Docket 94-54)
Cellular Antennas (RM – 9387)
Service for Indian Reservations (BO Docket No. 99-11)
Calling Party Pays (WT Docket 97-207)

Dear Ms. Salas:

On Tuesday, June 1, Denny Strigl, President & CEO of Bell Atlantic Mobile, S. Mark Tuller, Vice President & General Counsel, Bell Atlantic Mobile, and I had meetings with Chairman Bill Kennard, Ari Fitzgerald, Wireless Adviser to the Chairman, Tom Sugrue, Chief – Wireless Bureau, Bob Pepper, Chief - Office of Plans and Policy, and Jim Schlichting, Deputy Chief – Wireless Bureau. In addition we had meetings with Commissioner Gloria Tristani and Legal Advisor, Karen Gulick, Commissioner Harold Furchtgott-Roth and Legal Advisor, Robert Calaff, Commissioner Susan Ness and Legal Advisor, Dan Connors, and Peter Tenhula, Legal Advisor to Commissioner Michael Powell.

In all of our meetings we provided a copy of the attached April 29th letter to Tom Sugrue summarizing Bell Atlantic Mobile's position on several rulemakings referenced above that are necessary to effectively provide landline competition. We also provided copies of Bell Atlantic Mobile's comments in the Rate Integration Proceeding (CC Docket No. 96-61). We provided Chairman Kennard and Commissioner Tristani with an update on our efforts to serve Indian Reservations and discussed Bell Atlantic Mobile's comments filed in BO Docket No. 99-11. In these two meetings and in our discussion with Peter Tenhula in Commissioner Powell's office, we also discussed the importance of FCC action on the issues in the Flexible Use of CMRS Spectrum docket.

The issue of Calling Party Pays (WT Docket 92-207) was also discussed in our meetings, however since this is an exempt proceeding, materials that were part of those discussions which have been previously filed with the FCC in the docket are not included in this ExParte.

Sincerely,

Attachments

cc: w/o attachments
Chairman Kennard
Commissioner Tristani
Commissioner Furchtgott-Roth
Commissioner Ness
Ari Fitzgerald, Legal Advisor to Chairman Kennard
Karen Gulick, Legal Advisor to Commissioner Tristani
Bob Calaff, Legal Advisor to Commissioner Furchtgott–Roth
Dan Connors, Legal Advisor to Commissioner Ness
Peter Tenhula, Legal Advisor to Commissioner Michael Powell
Tom Sugrue, Chief – Wireless Bureau
Bob Pepper, Chief – Office of Plans and Policy
Jim Schlicting, Wireless Bureau

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**S. Mark Tuller**
Vice President - Legal and External Affairs
General Counsel and Secretary

April 29, 1999

Thomas Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Re: ***Top Priorities – "Convergence Without Re-Regulation"***

Dear Tom:

As promised, here are Bell Atlantic Mobile's priorities, coupled with a request for action.

But first a vote of confidence. The vote of confidence is for the positive atmosphere from the Bureau and the Commission during 1999. I'm encouraged by the willingness to recognize the differences between the wireless industry and other segments of the communications business. I'm thinking of your "Wireless Day" and "CNI" plans. In my mind, the Bureau has made progress in refocusing on competition, instead of regulation, as the key driver for wireless.

The request for action is for more of the same, urgently. The wireless industry, and Bell Atlantic Mobile in particular, is poised to offer increasing competition to the local landline exchange business but we need your support. Our ability to do more for consumers – particularly in competing for local usage – depends on the Bureau and the Commission making deliberate efforts to *continuously improve competitiveness and continuously block regulation.* Attached are seven dockets that are critical.

The single most important principle I would suggest guiding your Bureau is what we call ***"Convergence without Re-Regulation."*** The competitive success of wireless *can* begin to converge toward traditional landline traffic – beginning with "minute migration" and "second line migration" and moving toward primary phone displacement. But this can only be done by clearing the way for already competitive wireless carriers to operate the way they know best – competitively – as they become catalysts to accelerate landline competition. Adding regulations to a competitive model, even stripped-down versions, will impact our operation and will prevent us from achieving the Commission's goals, free and open competition.

The top seven rulemakings that are currently our priorities for maintaining and increasing our competitive service to the public are: spectrum cap, flexible use, calling party pays, rate integration, CPNI, reseller interconnection, and antenna polarization. We at Bell Atlantic Mobile look forward to speaking to you at length about these.

Best regards,

Mark Tuller

## REGULATORY OBSTACLES TO WIRELESS/LANDLINE COMPETITION

The Commission should complete the following dockets urgently. Clarity on these issues will remove impediments to CMRS carriers' developing the business case for the major capital and resource commitments needed to compete for landline traffic.

### 1. CMRS SPECTRUM CAP
**(WT Docket 98-205. NPRM pending since December 1998.)**

If wireless is to make inroads on landline traffic, wireless networks will need to be able to support the same kinds of services and meet the same customer expectations that are characteristic of landline networks. Wireless networks will need to handle sharply higher volumes of traffic, different peak loads, longer-duration calls, and an increasing proportion of data to voice traffic. All of these demands will require significantly more spectrum; the alternative is slower competitive growth and less robust service. The current caps impose a needless constraint on the ability of CMRS providers to accommodate the capacity demands that entering the landline markets effectively will entail.

### 2. FLEXIBLE USE OF CMRS SPECTRUM.
**(WT Docket 96-6. Further NPRM pending since August 1996.)**

The FCC has granted CMRS providers the flexibility to offer fixed services over CMRS spectrum, but has still not resolved how such services are to be regulated. The CMRS industry has demonstrated that competition functions as the best regulator. Subjecting CMRS providers to inappropriate landline regulation will suppress wireless carriers' incentive to enter the landline market in conjunction with their mobile service. The FCC should be encouraging new entry by ensuring the absolute minimum degree of regulation is imposed on wireless providers using their CMRS spectrum.

### 3. CALLING PARTY PAYS.
**(WT Docket 97-207. NOI pending since October 1997.)**

Wireless services will not be viewed as comparable for landline services for many consumers unless and until a CPP option is available. BAM is committed to deploying such an option. However, regulatory uncertainty has stifled CPP. The FCC can remove that uncertainty by confirming that CPP, like other offerings by wireless carriers, is CMRS. It should also confirm that a disclosure to the calling party that a charge will be assessed for continuing the call is sufficient to create an obligation by the calling party to pay the charge.

### 4. RATE INTEGRATION.
**(CC Docket 96-61. Further NPRM issued April 1999.)**

In December 1998, the FCC refused to forbear from extending landline rate integration obligations to CMRS, despite a record that showed the anti-competitive consequences rate integration would have on wireless service. The new NPRM contains proposals which would make those consequences even worse, by forcing wireless carriers to distort their market-responsive pricing, in the name of meeting a policy that

was never intended to apply to wireless. The pricing flexibility that is essential to offer local service in different cities is not compatible with forced rate integration. Forbearance was the right legal and policy result. But this new proceeding directly impacts carriers' business case for entering local markets.

**5. USE OF CPNI BY CMRS PROVIDERS.**
**(CC Docket 96-115. Forbearance petitions pending since May 1998.)**

Last year, the FCC reversed years of pro-consumer CMRS practices by forcing CMRS providers to segregate the offering of wireless CPE and information services from the offering of CMRS itself. The record clearly shows that customers expect and benefit from bundled offerings, and that the forced segregation of the marketing of service and equipment only impairs communication between customers and carriers without any benefit. The FCC should allow the use of CMRS CPNI to be used to market wireless CPE and information services.

**6. RESELLER ISSUES: BUNDLING AND INTERCONNECTION.**
**(CC Docket 94-54. Recon. petition on bundling pending since August 1996. NPRM on interconnection pending since April 1995.)**

Given the vigorous competition that marks the CMRS industry, there is no basis in economic theory or in law for the FCC to require CMRS providers either to offer unbundled equipment or physical interconnection to resellers. The FCC never imposed such requirements before, yet the industry has seen rapid growth in competition and steadily lower prices. The resellers' claim that imposing these rules will improve competition lacks any merit, but the FCC needs to clear out these old proceedings to remove the uncertainty over these issues that impairs planning. There is even less plausible basis for such regulation than ever.

**7. CELLULAR ANTENNAS.**
**(RM-9387. Rulemaking petition pending since September 1998.)**

The FCC currently prohibits cellular carriers from deploying horizontally-polarized antennas for analog service, which restricts the polarization of our combined digital/analog sites as a practical matter. This is an anachronistic rule left over from the 1980s when the FCC imposed detailed technical regulation. Today, competing broadband PCS providers are not subject to this limit. This technical restraint seriously impedes successful competition for landline traffic for several reasons. First, cellular carriers could provide more effective in-building coverage for homes and businesses if not restricted to vertical polarization. Second, customers' phones would be able to detect more incoming calls, because the phones would respond more reliably when placed horizontally (as on a table or in a briefcase). Third, cell sites would be able to be designed more compactly, and therefore deployed more ubiquitously. This technical restraint directly frustrates the FCC's policy goals.